

## United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	08 C 1637	DATE	May 7, 2008
CASE TITLE	Wheeler vs. Walker		

## DOCKET ENTRY TEXT

We grant Wheeler's motion [10] to proceed *in forma pauperis* and assess him an initial partial filing fee of \$2.33 pursuant to 28 U.S.C. § 1915(b)(1). The trust fund officer at Wheeler's place of incarceration is authorized and ordered to collect, when funds exist, the partial filing fee from his trust fund account and pay it directly to the clerk of the court. Thereafter, the trust fund officer at Wheeler's place of incarceration is directed to collect monthly payments from Wheeler's trust fund account in the amount of 20% of the preceding month's income credited to the account. Monthly payments shall be forwarded to the clerk of the court each time the account balance exceeds \$10 until the full \$455 filing fee is paid. Separate deductions and payments shall be made with respect to each action or appeal filed by the plaintiff. All payments shall be sent to the Clerk, United States District, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Cashier's Desk, 20th Floor, and shall clearly identify his name and this case number. Wheeler has requested that we supply him with all court transcripts of the proceedings in this case pursuant to F.R.A.P. 10(b). However, because there have been no court proceedings in this case, there have also been no transcripts. Accordingly, Wheeler's motion [17] is denied.

■ [ For further details see text below.]

Docketing to mail notices.

## ORDER

Plaintiff Anthony Wheeler filed a motion for leave to appeal *in forma pauperis* our March 2008 dismissal of his civil rights action for failure to state a claim upon which relief may be granted and a motion for transcripts pursuant to Federal Rule of Appellate Proceedings 10(b).

The rules governing leave to appeal with pauper status are governed by 28 U.S.C. § 1915 and Federal Rule of Appellate Procedure 24(a). Rule 24(a) requires that an attached affidavit submitted by the movant must: (A) show the "party's inability to pay or to give security for fees and costs;" (B) claim "an entitlement to redress;" and (C) "state the issues that the party intends to present on appeal." Leave shall be granted if the affidavit of indigency reflects the appellant's qualification for pauper status in financial terms, the action is not frivolous, and the appeal is brought in good faith. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982). A claim is frivolous only if the plaintiff can make no rational argument on the law or facts to support his claim for relief. *Jones v. Morris*, 777 F.2d 1277, 1279-80 (7th Cir. 1985) (quoting *Corgain v. Miller*, 708 F.2d 1241, 1247 (7th Cir. 1983)).

Wheeler's motion for leave to appeal *in forma pauperis* is supplemented by an affidavit stating that he lacks the funds in which to pay for the cost to file his appeal. In light of this affidavit and his March 2008 financial affidavit, we find that he is unable to pay the filing fee.

**ORDER**

Wheeler's motion also states the issues in which he intends to present on appeal and the claims in which he seeks redress. Though we previously found that Wheeler's claims were not cognizable, they do not presently appear to be frivolous. Accordingly, we grant Wheeler's motion to proceed *in forma pauperis* and assess him an initial partial filing fee of \$2.33 pursuant to 28 U.S.C. § 1915(b)(1). The trust fund officer at Wheeler's place of incarceration is authorized and ordered to collect, when funds exist, the partial filing fee from his trust fund account and pay it directly to the clerk of the court. Thereafter, the trust fund officer at Wheeler's place of incarceration is directed to collect monthly payments from Wheeler's trust fund account in the amount of 20% of the preceding month's income credited to the account. Monthly payments shall be forwarded to the clerk of the court each time the account balance exceeds \$10 until the full \$455 filing fee is paid. Separate deductions and payments shall be made with respect to each action or appeal filed by the plaintiff. All payments shall be sent to the Clerk, United States District, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Cashier's Desk, 20th Floor, and shall clearly identify his name and this case number.

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Dated: May 7, 2008



**CHARLES P. KOCORAS**  
**U.S. District Court Judge**